

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

EVELYN FREEMAN,

Plaintiff,

V.

Case No. 1:08-CV-154-SRW

STERLING JEWELERS, INC., A CORPORATION, OTHERWISE IDENTIFIED AS KAY JEWELERS, LOCATION NUMBER 271, DOTHAN ALABAMA, AMY GOLDEN, ROBYNEE KNEW, JOHN DOE, RICHARD ROE, et al.,

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE

Defendants Sterling Jewelers, Inc. (“Sterling”), Amy Golden, and Robynne Knew (collectively referred to as “Defendants”), by and through their undersigned counsel, hereby submit the following in response to the Plaintiff’s Motion to Strike:

1. Plaintiff moves to strike Defendants' Reply to Plaintiff's Response to Stay Proceedings and Compel Utilization of the Resolve Program Which Involves Binding Arbitration because the defendants did not file their response on **SUNDAY** April 13, 2008.

2. Defendants acknowledge that the Court's Order dated April 3, 2008 did state that the last date to file their reply brief in response to the plaintiff's opposition to the defendants' motion was **Sunday**, April 13, 2008.

3. Defendants filed the reply brief on **Monday**, April 14, 2008. Defendants relied on Rule 6 of the Federal Rules of Civil Procedure as to the computation of time. That rule, which explicitly states it applies to court orders, provides that if the "last day of the period" is a "Saturday, Sunday or legal holiday, [then] the period runs until the end of the next day which is not one of the aforementioned days." FED.R.CIV.P. Rule 6(a). Consequently, according to the Federal Rules of Civil Procedure, the defendants' reply was timely.

4. To the extent the court intended Defendants to file the reply brief on Friday April 11, 2008 or to somehow file on it Sunday, April 13, 2008, the defendants respectfully ask the court to sua sponte, permit the brief's filing on Monday due to an understandable confusion.

5. Based on the foregoing, the defendants respectfully request that the Court deny the plaintiff's Motion to Strike.

DATED this 15th day of April 2008.

/s/ Mieke A. Hemstreet

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*Attorneys for Defendants, Sterling
Jewelers, Inc., Amy Golden and Robynne
Knew*

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing by U.S. Mail and/or electronically on this the 15th day of April, 2008 to the following counsel of record:

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/s/ Mieke A. Hemstreet

Of Counsel